HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.176 of 2007

Between:

The Management of Holy Mary High School
Rep. by its Secretary and Correspondent,
Ms.M. Josephine and others.

... Appellants

And

The District Educational Officer,
Rangareddy District and others.

... Respondents

Counsel for the appellants: Shri K. Ram Reddy

Counsel for respondent Nos.1 to 6: Government Pleader for Education.

::JUDGMENT::

July 02, 2007

Per G.S. Singhvi, CJ

Commercialisation of education and the desire of the management of private educational institutions to establish monopoly

in the particular areas appears to be the real motive of the appellants in filing Writ Petition No.20284 of 2006 for issue of a direction to the Commissioner and Director of School Education, Andhra Pradesh (respondent No.3) and the Government of Andhra Pradesh through Secretary, School Education Department to initiate action against the District Educational Officer, Ranga Reddy and the Regional Joint Director, School Education, Hyderabad (respondent Nos.1 and 2 respectively) for their alleged failure to stop the shifting of the school run by respondent No.5 in violation of the provisions contained in the Andhra Pradesh Education Act, 1982 (for short, 'the Act') and the Andhra Pradesh Educational Institutions (Establishment, Recognition, Administration and Control of Schools under Private Managements) Rules, 1993 (hereinafter described as 'the Rules'). It is the misfortune of the appellants that they could not persuade the learned Single Judge to entertain their prayer which, if accepted, would have coerced respondent Nos.1 and 2 to take some or other punitive measure against respondent No.5.

In the affidavit filed in support of the writ petition, Shri J. Joseph, Correspondent of appellant No.2 averred that respondent No.5 shifted its institution from 2-102/4, Bombay Dyeing Building, Balanagar, Hyderabad to 4-37/3, Feroziguda, Secunderabad, which is hardly ten yards away from the school of petitioner No.2 (appellant No.2 herein); that the representation made by the petitioners compelled Regional Joint Director of School Education, Hyderabad (respondent No.2) to return the proposal made for grant of permission to shift the school of respondent No.5; that Writ Petition No.13723 of 2006 filed by them for directing the official respondents to prosecute respondent No.5 under Section 20 (4) of the Act on the ground of violation of Rules 4 and 10 (2) of the Rules and also for closure of the

school of respondent No.5 was admitted by the High Court on 13.9.2006, but WPMP No.17071 of 2006 was dismissed and that despite the non-acceptance of its application for permission to shift, respondent No.5 is running the school from the alternative premises.

The learned Single Judge noted that the proposal made for shifting of school by respondent No.5 was returned by respondent No.2 and held that the writ petition filed by the appellants was nothing but an abuse of the process of the Court because the prayer made by them in WPMP No.17071 of 2006 in Writ Petition No.13723 of 2006 against shifting of school run by respondent No.5 was rejected.

We have heard Shri K. Ram Reddy and scrutinised the record. We entirely agree with the learned Single Judge that the writ petition filed by the appellants is gross abuse of the process of the Court and the conduct of the appellants in seeking direction for initiation of action against respondent Nos.1 and 2 deserves condemnation. Admittedly, Writ Petition No.13723 of 2006 filed by the appellants for ordering prosecution of respondent No.5 on the ground that it is running school at the alternative site is pending adjudication. It is also not in dispute that the prayer made by the appellants for issue of interim direction was rejected by the learned Single Judge. In this backdrop, the second writ petition filed by them cannot but be termed as a part of their design to compel the official respondents to take action against respondent No.5 notwithstanding the fact that the High Court did not feel inclined to do so. The deceptive framing of the writ petition and the prayer clause cannot mislead the Court in believing that the cause for filing Writ Petition No.20284 of 2006 is different from the one for filing Writ Petition No.13723 of 2006. In our considered view, both the writ petitions are primarily directed against the so-called illegality committed by respondent No.5 in attempting to

shift the school from the building situated in Balanagar to Feroziguda.

In view of the above, we hold that the appellants have miserably failed to make out a case for interference with the order of the learned Single Judge and the appeal is liable to be dismissed. Ordered accordingly.

We would have saddled the appellants with exemplary costs, but refrain from doing so because the appeal is being dismissed at the threshold.

G.S. SINGHVI, CJ

July 02, 2007

C.V. NAGARJUNA REDDY, J

svs